



(Billing Code 5001-06)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 242

RIN 0750-AH41

Defense Federal Acquisition Regulation Supplement:

Administering Trafficking in Persons Regulations (DFARS Case 2011-D051)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add to the list of contract administration functions a requirement to maintain surveillance over contractor compliance with duties and responsibilities pertaining to trafficking in persons when they are incorporated in contracts.

DATES: Effective Date: [Insert date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Meredith Murphy, telephone 703-602-1302.

SUPPLEMENTARY INFORMATION:

I. Background

The current FAR, at section 22.1705, entitled "Contract clause," prescribes use of the clause at FAR 52.222-50, Combating Trafficking in Persons, in all solicitations and contracts. When the contract will be performed outside the United States, the clause must be used with its Alternate I, as prescribed in FAR 22.1705(b). The clause requires contractors to inform employees of the Government's zero-tolerance policy and the actions that will be taken against them for violations of the policy. In addition, contractors are required to notify the contracting officer immediately of any information received about an employee's conduct that violates this policy and also of actions taken against an employee as a result of the violation.

While the clause at FAR 52.222-50, Combating Trafficking in Persons, has been in effect since February 2009, the listing of Government contract administration functions was not modified at that time to add surveillance of a contractor's compliance with the clause requirements. Because the addition of this contract administration function is internal to DoD and will not impact current contract requirements or contract clauses, this is not a significant revision as defined at FAR 1.501-1. Therefore,

under the authority at FAR 1.501-3(a), this rule can be published as a final rule without first obtaining public comment.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because an initial regulatory flexibility analysis is only required for proposed or interim rules that require publication for public comment (5 U.S.C. 603) and a final regulatory flexibility analysis is only required for final rules that were previously published for public comment, and for which an

initial regulatory flexibility analysis was prepared (5 U.S.C. 604) .

This final rule does not constitute a significant DFARS revision as defined at FAR 1.501-1 because this rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the Government. Therefore, publication for public comment under 41 U.S.C. 1707 is not required.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35) .

List of Subjects in 48 CFR Part 242

Government procurement.

Ynette R. Shelkin

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 242 is amended as follows:

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

1. The authority citation for 48 CFR part 242 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

2. Amend section 242.302 by adding paragraph (a) (S-73) to read as follows:

242.302 Contract administration functions.

(a) * * *

(S-73) Maintain surveillance over contractor compliance with trafficking in persons requirements for all DoD contracts for services incorporating the clause at FAR 52.222-50, Combating Trafficking in Persons, and, when necessary, its Alternate I, as identified in the clause prescription at FAR 22.1705. (See PGI 222.1703.)

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